



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 03.02.2022

CORAM:

THE HONOURABLE MR. JUSTICE S.S.SUNDAR

C.R.P. No.523 of 2019
and
C.M.P.No.3389 of 2019

M.R.Ramanan

.. Petitioner

Vs.

1.A/M Sundararaja Perumal and
Thatheeswarar Devasthanams,
Represented by T.G.Yuvakumar,
Hereditary Trustee,
Thirumanam Village,
Poonamallee Taluk.

2.The Commissioner,
Hindu Religious and Charitable Endowments Board,
Nungambakkam, Chennai - 600 034.

3.The Joint Commissioner,
Hindu Religious and Charitable Endowments Board,
Vellore.

4.The Assistant Commissioner,
Hindu Religious and Charitable Endowments Board,
Thiruvallur District, Thiruvallur.

5.The Executive Officer,
A/M Thirumazhisai Alwar and
Jagannatha Perumal Thirukoil,
Thirumazhisai, Thiruvallur District.

.. Respondents

Civil Revision Petition is filed under Article 227 of Constitution of India, to set aside the fair and decretal orders passed by the Principal District Munsif, Poonamallee, in I.A.No.744 of 2018 in O.S.No.495 of 2015, dated 28.11.2018 and to allow the Civil Revision Petition in order to protect the interest of the temples in Thirumanam Village.

For Petitioner : No appearance

For Respondents : Mr.P.Vasanth for R1

: Mr.D.Gopal
Government Advocate
for R2 to R4



O R D E R

This Civil Revision Petition is preferred by a third party to the suit in O.S. No.495 of 2015 on the file of Principle District Munsif Court, Poonamallee.

2. The first respondent in the revision petition filed a suit in O.S. No.495 of 2015 before the Principal District Munsif Court, Poonamallee, for permanent injunction restraining the defendants, their men, from obstructing or disturbing the plaintiff's peaceful administration and enjoyment as hereditary trustee of the plaintiff's temple. The suit property is stated to be a property belonged to Arulmigu Sundararajaperumal & Thattheswarar Devasthanam, Thirumanam Village, Poonamallee Taluk, Thiruvallur District. It is the case of the petitioner that his father Mr.T.Sundararaja Mudaliar became the hereditary trustee of two temples. It is further stated that there is reference to several suits earlier in respect of the temple in the plaint filed by the first respondent. It is admitted that the plaintiff's father earlier filed a writ petition in W.P. No.22019 of 2010 before this Court challenging the order passed by the Commissioner, H.R. & C.E. Board, declaring one T.G.Rajan as hereditary trustee of the temples. Be that as it may, the revision petitioner who is a third party to the suit filed an application to implead him as a necessary and proper party in the suit as fifth defendant for effective adjudication of the suit.

3. In the affidavit filed in support of the petition, it is stated by the revision petitioner that in the writ petition filed by the father of plaintiff, the petitioner's brother was made as a party. It is admitted that the first respondent plaintiff has filed an application before the second defendant in the suit namely the Joint Commissioner, H.R. & C.E. Vellore, under Section 63(b) of H.R. & C.E. to declare himself as a hereditary trustee of the temple. In the said application, the revision petitioner has already filed a petition to implead himself as a party. It is admitted that in the writ petition filed by the father of the plaintiff, there was direction to the authorities of H.R. & C.E. Department to consider the application of the plaintiff's father who wanted him to appoint as a hereditary trustee. Since the issue is whether the office of trusteeship is hereditary or not in respect of a public temple, it is to be seen that the anyone who has got interest either as a worshipper or as a person interested in the proper administration of temple or eligible to be appointed as a non-hereditary trustee of the temple can oppose the application.

4. It is to be seen that the suit is for permanent injunction



on the ground that the plaintiff is a hereditary trustee. The suit is filed even before getting a declaration before the competent authority under Section 63 (b) of H.R. & C.E. Act. In such circumstances, the petition filed by the revision petitioner to implead himself as a necessary and proper party cannot be dismissed especially when the relief is by assuming that the plaintiff has got the exclusive right to administer the temple as a hereditary trustee in respect of a public temple. Hence, the order passed by the lower Court is erroneous and therefore, unsustainable in law.

5. From the facts admitted and pleaded by the plaintiff, this Court is unable to justify the maintainability of the suit. There is a specific bar to exclude the jurisdiction of Civil Court in relation to matters that comes within the jurisdiction of the authorities under Section 109 of H.R. & C.E. Act. Though the suit is for permanent injunction the relief appears to be on assumption that the plaintiff is a hereditary trustee even though the authorities have not recognised anyone as hereditary trustee or declare the office of trusteeship as hereditary as contemplated under Section 63 (b) of H.R. & C.E. Act. Therefore, the trial Court has to consider the maintainability also as an issue and dispose of the suit as expeditiously as possible preferably within a period of four months from the date of receipt of a copy of this order.

6. In result, this Civil Revision Petition is allowed and the order passed orders passed by the learned Principal District Munsif, Poonamallee, in I.A.No.744 of 2018 in O.S. No.495 of 2015, dated 28.11.2018, is hereby set aside with the directions indicated above No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar(CS-III)

//True Copy//

Sub Assistant Registrar

bkn

To

The Principal District Munsif,
Poonamallee.

+1cc to the Special Government Pleader(CS), S.R.No.7151

C.R.P. No.523 of 2019

KV(CO)
SB(10/03/2022)